

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA

v.

DEMETRIUS LAMONT PARTON

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**No. 3:08-CR-134
(Phillips/Shirley)**

MEMORANDUM AND ORDER

On July 2, 2010, the Honorable C. Clifford Shirley, United States Magistrate Judge, filed an 19-page Report and Recommendation (R&R) [Doc. 24] in which he recommended that defendant's motion to suppress evidence seized in this case [Doc. 13] be denied. Thus, Judge Shirley recommended that the gun seized from defendant's bedroom on August 16, 2008, be admitted at trial.

This matter is presently before the court on defendant's timely objections to the R&R [Doc. 26]. The government has filed a response to defendant's objections [Doc. 27]. As required by 28 U.S.C. § 636(b)(1), the court has now undertaken a *de novo* review of those portions of the R&R to which defendant objects. For the reasons that follow, the court finds itself in agreement with Judge Shirley's thorough analysis of the legal issues arising from the suppression hearing conducted by him on May 11, 2010. Consequently, defendant's objections will be overruled, the R&R will be accepted in whole, and the underlying motion to suppress will be denied.

Defendant argues that the gun found in his bedroom on August 16, 2008, should be suppressed as the fruit of an illegal warrantless search. The court disagrees. After reviewing the record, the court concludes, as did Magistrate Judge Shirley, that when the officers responded to the call of shots fired at 2520 Linden, they were faced with an emergency situation. Mrs. Parton was distraught and equivocal about whether anyone else was inside the residence. Because the potential for injury to someone inside the residence was high, the officers were justified entering the residence to search for victims. The court finds that exigent circumstances existed, and the court further finds that the officers properly entered and searched the residence and in particular, the defendant's bedroom on August 16, 2008. Based on the record, the court finds defendant's objections to the R&R without merit.

For the foregoing reasons, as well as the reasons articulated by Magistrate Judge Shirley in his R&R, defendant's objections to the R&R [Doc. 26] are hereby **OVERRULED** in their entirety whereby the R&R [Doc. 24] is **ACCEPTED IN WHOLE**. Accordingly, defendant's motion to suppress evidence [Doc. 13] is **DENIED** in its entirety, whereby the court will allow the introduction of the gun seized from defendant's bedroom on August 16, 2008, at the trial of this matter, which is presently set for October 13, 2010.

ENTER:

s/ Thomas W. Phillips
United States District Judge